

**MEMORANDUM**

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KWB*  
Amanda Mihill, Legislative Analyst *AM*

SUBJECT: **Introduction:** Bill 33-07, Renewable Energy

Bill 33-07, Renewable Energy, sponsored by Councilmembers Berliner, Ervin, Council President Praisner, and Councilmembers Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. This bill:

- Requires the Director of the Department of Environmental Protection (DEP) to develop a Renewable Energy Action Plan;
- Requires the Director of DEP to study the feasibility of creating a Sustainable Energy Utility;
- Prohibits enforcement of any deed restriction, covenant, rule, or regulation which would prohibit the owner of any building from installing a renewable energy device; and
- Creates a property tax credit for residential property that uses a solar or geothermal energy device.

This packet contains:

Bill 33-07  
Legislative Request Report

Circle #

1  
8

Bill No. 33-07  
Concerning: Renewable Energy  
Revised: 11/1607 Draft No. 7  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Councilmembers Berliner, Ervin, Council President Praisner, and Councilmembers Elrich and Floreen

---

**AN ACT to:**

- (1) require the Director of the Department of Environmental Protection to develop a Renewable Energy Action Plan after evaluating options for increasing the use of renewable energy in and by the County, including the feasibility of creating a Sustainable Energy Utility;
- (2) prohibit enforcement of certain deed restrictions, covenants, rules, or regulations relating to renewable energy devices;
- (3) create a property tax credit for the installation of certain renewable energy devices; and
- (4) generally amend the law relating to energy and property tax credits.

By adding

Montgomery County Code  
Chapter 18A, Energy Policy  
Section 18A-12

Chapter 40, Real Property  
Section 40-3A

Chapter 52, Taxation  
Section 52-18Q

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

1

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 18A-12, Section 40-3A, and Section 52-18Q are added as**  
 2 **follows:**

3 **18A-12. Renewable Energy Action Plan.**

4       (a) Definitions. In this Section, the following words have the meanings  
 5 indicated:

6       “Department” means the Department of Environmental Protection.

7       “Director” means the Director of the Department or the Director’s  
 8 designee.

9       “Renewable energy” means the following energy sources or technology:

10       (1) Solar;

11       (2) Wind;

12       (3) Geothermal;

13       (4) Tidal;

14       (5) Methane from anaerobic decomposition of organic materials in a  
 15 landfill or wastewater treatment plant; and

16       (6) Any other energy source or technology which the Director finds  
 17 is derived from natural processes that do not involve the  
 18 consumption of exhaustible resources.

19       “Sustainable Energy Utility” means a non-profit organization which:

20       (1) Develops end-user markets for products and services relating to  
 21 energy efficiency and renewable energy; and

22       (2) Serves as a point-of-contact for end-users to obtain information  
 23 about products and services relating to energy efficiency and  
 24 renewable energy.

25       (b) Study. The Director must prepare a Renewable Energy Action Plan after  
 26 evaluating the costs and benefits of options to increase renewable

27 energy use in and by the County, including the feasibility of creating a  
 28 Sustainable Energy Utility.

29 (c) Initial report. The Director must submit a report to the County  
 30 Executive and County Council by July 1, 2008 that identifies the  
 31 components of the Renewable Energy Action Plan.

32 (d) Energy work program. The County Executive's energy work program,  
 33 required by Section 18A-2, must identify any action necessary to  
 34 implement the Renewable Energy Action Plan.

35 **40-3A. Renewable energy devices.**

36 (a) Definitions. In this Section, the following words have the meanings  
 37 indicated:

38 "Renewable energy" means the following energy sources or technology:

- 39 (1) Solar;
- 40 (2) Wind; and
- 41 (3) Geothermal.

42 "Renewable energy device" means a device that:

- 43 (1) Creates, converts, or actively uses renewable energy; and
- 44 (2) Meets safety and performance standards set by a nationally  
 45 recognized testing laboratory for that kind of device.

46 "Owner of any building" includes a unit owner in a condominium, a lot  
 47 owner in a homeowner's association, and a shareholder in a cooperative  
 48 housing corporation.

49 (b) Prohibition. A person must not create or enforce any deed restriction,  
 50 covenant, rule, or regulation, or take any other action, which would  
 51 prohibit the owner of any building from installing a renewable energy  
 52 device.

53 (c) Applicability. This Section applies to all deed restrictions, covenants,  
 54 rules, and regulations adopted before and after this Section became law.

55 **52-18Q. Property tax credit – renewable energy.**

56 (a) Definitions. In this Section, the following words have the meanings  
 57 indicated:

58 “Director” means the Director of the Department of Finance or the  
 59 Director’s designee.

60 “Eligible cost” means the cost of buying or installing a solar or  
 61 geothermal energy device, including any part, component, or accessory  
 62 necessary to operate the device, that is installed within 12 months before  
 63 a property owner submits an application to the Department of Finance  
 64 under subsection (f).

65 “Geothermal energy device” means a device that:

66 (1) Uses geothermal energy to heat or cool a structure, to provide hot  
 67 water for use in the structure, or to generate electricity to be used  
 68 in the structure; and

69 (2) Meets safety and performance standards set by a nationally  
 70 recognized testing laboratory for that kind of device.

71 “Solar energy device” means a device that:

72 (1) Uses solar energy to heat or cool a structure, to provide hot water  
 73 for use in the structure, or to generate electricity to be used in the  
 74 structure; and

75 (2) Meets safety and performance standards set by a nationally  
 76 recognized testing laboratory for that kind of device.

77 “Tax-Property Article” means the Tax-Property Article of the Maryland  
 78 Code.

79 (b) Credit. As authorized by §9-203 of the Tax-Property Article, an owner  
80 of residential property that uses a solar or geothermal energy device  
81 may receive a credit against the County property tax.

82 (c) Amount of Credit. The credit allowed under this Section is the lesser  
83 of:

84 (1) 50% of the eligible costs; or

85 (2) \$5,000 for a heating system or \$1,500 for a hot water supply  
86 system.

87 (d) Annual aggregate limit.

88 (1) During any fiscal year, the total credits granted under this Section  
89 must not exceed \$250,000.

90 (2) Credits must be granted in the order in which the Department of  
91 Finance receives complete applications under subsection (f).

92 (3) A complete application that, if granted, would cause the limit set  
93 in paragraph (1) of this subsection to be exceeded, must be  
94 granted in the next fiscal year or years based on the order in  
95 which the Department of Finance received the application.

96 (e) Carry Over.

97 (1) The amount of a credit in any tax year must not exceed the  
98 amount of the County property tax imposed on the property in  
99 that tax year.

100 (2) Any amount of a credit not taken in the tax year in which an  
101 application is approved may be carried over for an additional two  
102 years.

103 (3) When a credit is carried over under this subsection, the full  
104 amount of the credit must be counted towards the annual

105 aggregate limit established in subsection (d) in the year in which  
106 an application is approved.

107 (f) Application.

108 (1) A property owner must submit an application to the Director on  
109 or before the date that the Director sets.

110 (2) An application must:

111 (A) Be on the form that the Director requires;

112 (B) Demonstrate that the taxpayer is entitled to the credit; and

113 (C) Include a certification from the Department of Permitting  
114 Services, indicating that the device for which the credit is  
115 sought:

116 (i) Is a solar or geothermal energy device; and

117 (ii) Has been properly installed.

118 (g) Applicability. The credit authorized by this Section applies to any tax  
119 year beginning after June 30, 2008

120 *Approved:*

121  
122  
123 \_\_\_\_\_  
Marilyn J. Praisner, President, County Council

Date

124 *Approved:*

125  
126 \_\_\_\_\_  
Isaih Leggett, County Executive

Date

127 *This is a correct copy of Council action.*

128 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 33-07  
*Renewable Energy*

**DESCRIPTION:** Requires the Director of the Department of Environmental Protection to develop a Renewable Energy Action Plan and study the feasibility of creating a Sustainable Energy Utility, prohibits the enforcement of certain deed restrictions, covenants, rules, or regulations relating to renewable energy devices, and creates a property tax credit for the installation of certain renewable energy devices.

**PROBLEM:** Although the County has committed to buy 20 percent of its own power from wind, the County does not currently have a comprehensive plan to maximize the use of renewable energy sources by County government, businesses, and private citizens.

**GOALS AND OBJECTIVES:** These measures are designed to encourage and increase the use of renewable energy by and in the County.

**COORDINATION:** Department of Environmental Protection, Department of Finance.

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Class A violation.